

General Information Letter: Unemployment compensation and taxes are administered by the Department of Employment Security, not by the Department of Revenue.

May 11, 1998

Dear:

This is in response to your letter dated May 1, 1998, in which you request a General Information Letter. Department of Revenue ("Department") regulations require that the Department issue only two types of letter rulings, Private Letter Rulings ("PLRs") and General Information Letters ("GILs"). PLRs are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. GILs do not constitute statements of agency policy that apply, interpret or prescribe the tax laws and are not binding on the Department. For your general information we have enclosed a copy of 2 Ill. Adm. Code Part 1200 regarding rulings and other information issued by the Department.

Although you have not specifically requested either type of ruling, the information you have provided requires that we respond with a general information letter.

In your request you stated:

xxx xxxxxxxx xxxxxxxxxxxxxxxx, xxx. (xxx) administers employer-sponsored group plans for companies situated throughout the country. We will be administering an Employee Welfare Benefit Plan (plan) which pays a dismissal wage (severance type) benefit to certain Plan participants. Employers will contribute amounts to the Plan on behalf of certain of their employees. At the time those employees terminate their employment with that employer, they may be entitled to benefit payments from the Plan. We have been advised by our accountant/auditor that those benefit payments will be subject to FICA/Medicare taxes, federal income taxes, and that we will also have to pay Federal Unemployment Tax (FUTA) and to file a Form 940 annually with the IRS.

Some Plan participants will reside in the State of Illinois. The Plan will be making dismissal wage benefit payments to those individuals. We need to know if we must pay State Unemployment Tax to the State of Illinois on distributions to those Plan participants who reside in Illinois and file State Unemployment Tax Returns.

If we do need to pay State Unemployment Tax to the State of Illinois, at what rate will the Plan be assessed? Please be advised that the Plan has no employees and therefore will never be subjected to an unemployment claim. In light of this fundamental fact that the Plan, having no employees, can have an unemployment claim, we therefore

respectfully request that we be assessed the lowest available State Unemployment Tax Rate.

Please provide us your response to the above issues at your earliest opportunity, accompanied by any documents which we may need to fill out to obtain a State number for filing purposes. Thank you for your anticipated courtesy and prompt attention to this matter.

Department Analysis

I am unable to answer your question as the Department of Revenue does not administer the unemployment tax for Illinois. However, as the Department of Employment Security does administer the unemployment tax you may wish to address your question to the following address:

Mr. Joseph Mueller
Legal Counsel
Department of Employment Security
401 S. State
6th Floor
Chicago, Illinois 60605
(312) 793-9503

I hope that this has been helpful to you. If you have additional questions please feel free to contact me at the above address.

Sincerely,

Charles E. Matoesian
Associate Attorney (Income Tax)